

ARIZONA HOUSE OF REPRESENTATIVES
Forty-ninth Legislature - First Regular Session

MAJORITY CAUCUS CALENDAR

February 24, 2009

***Presentation on Federal Stimulus by Grant Nulle**

Bill Number	Short Title	Committee	Date	Action
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Committee on Commerce

Analyst: Diana Clay O'Dell Assistant: Brooke Olguin Intern: Maureen Howell

HB 2043	corporations and LLC omnibus				
SPONSOR:	KONOPNICKI	COM	2/4	DP	(7-0-0-1-0)
HB 2091	charitable organizations; solicitations; disclosures				
SPONSOR:	REAGAN	COM	2/4	DP	(8-0-0-0-0)
HB 2258	consumer fireworks; novelties; sales (COM S/E: consumer fireworks)				
SPONSOR:	BIGGS	COM	2/11	DPA/SE	(6-2-0-0-0)

Committee on Education

Analyst: Jennifer Anderson Intern: Cassandra Warney

HB 2012	community college bookstores; revenue expenditures				
SPONSOR:	KONOPNICKI	ED	1/22	DP	(10-0-0-0-0)
		APPROP	2/11	DP	(13-0-0-0-0)

Committee on Government

Analyst: Michelle Hindman Assistant: Zach Tretton Intern: Laurel Johnson

HB 2014	municipalities; exchange of real property				
SPONSOR:	KONOPNICKI	GOV	2/10	DPA	(9-0-0-0-0)
HB 2088	minerals; land inventory; technical correction (GOV S/E: public conservation monies; transfer; parks)				
SPONSOR:	NICHOLS	GOV	2/10	DPA/SE	(6-3-0-0-0)
HB 2401	administrative rules oversight committee				
SPONSOR:	WILLIAMS	GOV	2/17	DP	(8-0-0-1-0)
HCR 2024	sovereignty; tenth amendment.				
SPONSOR:	BURGES	GOV	2/17	DP	(6-3-0-0-0)

Committee on Judiciary

Analyst: Kristine Stoddard Intern: Robert Stout

HB 2058	commissioners; qualifications				
SPONSOR:	KONOPNICKI	JUD	1/22	DP	(7-0-0-0-0)

Committee on Transportation and Infrastructure

Analyst: Ingrid Garvey Intern: Laureen Stadle

[HB 2010](#)

license plate attachment and display
(TI S/E: license plate display; penalty)

SPONSOR: KONOPNICKI TI 2/5 DPA/SE (8-0-0-0-0)

[HB 2390](#)

escort vehicles; training

SPONSOR: BIGGS TI 2/12 DPA (7-0-0-1-0)



HOUSE OF REPRESENTATIVES

HB 2010

license plate attachment and display

Sponsor: Representative Konopnicki

DPA

S/E Committee on Transportation and Infrastructure

X Caucus and COW

House Engrossed

HB2010 repeals the statute that prohibits license plate frames from obscuring the name of this state at the top of the license plate.

The strike everything amendment changes the penalty for obscuring this state's name to a secondary enforcement status and sets fines for such a violation.

History

Laws 2006, Ch. 377 requires that this state's name be clearly visible on the top of the license plate. The law contained a delayed effective date for January 1, 2009.

A Department of Public Safety *News Release* states that fines for violating the law can range from \$110.00 to \$200.00 statewide, according to the traffic court that has jurisdiction. The violation of this law is a civil offense and carries a penalty of up to \$250.

Provisions

- Eliminates the requirement that this state's name be clearly legible on license plates.

Provisions of proposed strike-everything amendment

- Specifies the requirements for correctly displaying and maintaining license plates.
- Modifies the penalty for obscuring this state's name to a secondary civil violation.
- Establishes a civil penalty of \$30 for such a violation.
- Creates a penalty of \$100 if a second violation takes place within twelve months of the first violation.



HOUSE OF REPRESENTATIVES

HB 2012

community college bookstores; revenue expenditures

Sponsor: Representative Konopnicki

DP Committee on Education

DP Committee on Appropriations

X Caucus and COW

House Engrossed

HB 2012 exempts a community college district that exceeds its aggregate expenditure limitation because of bookstore retail revenues from the state aid withholding penalty.

History

The Arizona Constitution requires the Economic Estimates Commission (EEC) to establish the aggregate expenditure limitation (AEL) of local revenues for community college districts (Districts) for the following fiscal year before April 1. The AEL is annually adjusted from the 1980 level of local revenues to reflect changes in student population and the cost of living. As defined by the Constitution, *local revenues* include any monies, revenues, funds, property, and receipts received by a school district. However, certain revenues like bonding are exempt from the definition of local revenues (Arizona Constitution, Article IX, Section 21).

Each District must file a budgeted expenditure limitation report and financial statements with the Auditor General within four months after the end of the fiscal year. The documents submitted must be audited by the Auditor General or a certified private/public accountant. If a District exceeded its AEL for the fiscal year without prior authorization, a portion of their state aid is withheld (A.R.S. § 41-1279.07). The Governing Board of a District may request the voters of the District at a regularly scheduled election to authorize expenditures in excess of the AEL. The ballot question submitted to voters must specify the percentage of the AEL that the District may exceed. The District may request authorization for at least two but no more than seven fiscal years at a time. If the authorization passes, the District's AEL is modified to reflect the approved increase beginning with the fiscal year following the election (A.R.S. § 15-1471).

A temporary exemption to the state aid withholding penalty was enacted in 2006 for any District that exceeded its AEL because of the expenditure of revenues from a bookstore operated by that District. This temporary exemption expires June 30, 2009 (Laws 2006, Chapter 198). At the time the exemption passed, only two of Arizona's ten established Districts had bookstores that were self-operated: Northland Pioneer College in Navajo County and Central Arizona College in Pinal County. Bookstores at the other Districts are outsourced to private contractors and the revenues collected from them are exempt from the AEL. Since then, Central Arizona College has also outsourced its bookstore to a private contractor.

Provisions

- Provides an exemption from the existing state aid withholding penalty assessed to a District that exceeds its AEL if the amount exceeded is due to the expenditure of revenues from a bookstore operated by that District.

- Applies retroactively to July 1, 2009.
- Contains a delayed repeal of June 30, 2019.



HOUSE OF REPRESENTATIVES

HB 2014

municipalities; exchange of real property

Sponsor: Representative Konopnicki

DPA Committee on Government

X Caucus and COW

House Engrossed

HB 2014 permits cities and towns to exchange real property outside their boundaries.

History

Arizona Revised Statutes (A.R.S.) § 9-401 allows a city or town to purchase, lease, or rent land lying outside its corporate limits for its purposes and uses. Statute also allows a city or town to sell and convey all or any part of its real or personal property, whether or not the property is devoted exclusively to public use (A.R.S. § 9-402).

Current law further allows an incorporated city or town to exchange a parcel of real property for any other parcel of real property within the incorporated city or town as long as the parcels of real property are of substantially equal value and meet the terms and conditions prescribed in the ordinance. An incorporated city may also sell a parcel of real property to another political subdivision without following the procedures specified in statutes regarding the sale of real property. Presently, a notice of intent to exchange or sell any property must be published in a newspaper of general circulation before the exchange or sale (A.R.S. § 9-407).

Provisions

- Allows cities and towns to exchange real property outside their boundaries.
- Makes technical and conforming changes.

Amendments

Committee on Government

- Clarifies that the original parcel of real property is owned by a city or town.



HOUSE OF REPRESENTATIVES

HB 2043

corporations and LLC omnibus

Sponsor: Representative Konopnicki

DP Committee on Commerce

X Caucus and COW

House Engrossed

HB 2043 makes changes to statutes to conform the regulations for corporations and limited liability companies.

History

The Arizona Corporation Commission (ACC) was created by the Arizona Constitution, and currently functions with five elected commissioners. Within the ACC the Corporations Division grants corporate or limited liability company (LLC) status to businesses organizing in Arizona, issues licenses to foreign corporations and LLCs doing business in Arizona, and maintains corporate and LLC filings and corporate annual reports.

Title 29, Chapter 4, Arizona Revised Statutes, prescribes the requirements for an LLC to operate under the jurisdiction and regulatory control of the ACC. Additionally, Title 10, the Corporations and Associations provisions of statute, regulates corporations.

In order to conform all corporate and LLC statutes to provide the business community with an efficient and consistent means to operate, as well as codify current practice, there have been numerous changes to the statutes over the last several years. Laws 2008, Chapter 314 (SB 1410) made substantive, administrative and technical changes and additions to the statutes. HB 2043 makes further changes to conform and clarify the related statutes.

Provisions

- Eliminates the requirement for an entity to file an affidavit evidencing publication of documents filed with the ACC as well as the 90 day timeframe in which to file (maintains permissive language for filing the affidavit). [10-203; 10-224; 10-1006; 10-1007; 10-1008; 10-1105; 10-1503; 10-3203; 10-3224; 10-11006; 10-11007; 10-11008; 10-11105; 10-11107; 10-11403; 10-11503; 29-633; 29-635]
- Stipulates the ACC may serve notice either by mail or through a process server. [10-504; 10-1510; 10-3504; 10-11510]
- Requires a corporation and an electric cooperative to publish its articles of dissolution within 60 days after the ACC approves its filing. [10-1403; 10-2077; 10-2143]
- Requires a foreign corporation or nonprofit foreign corporation to publish its application for withdrawal within 60 days after the ACC approves the filing. [10-1520; 10-11520]

- Eliminates the requirement for a cooperative marketing association to submit a financial data statement to the ACC in the Annual Report. [10-2019]
- Requires a report be filed annually for every electric cooperative nonprofit membership corporation and nonprofit electric generation and transmission cooperative corporation. [10-2084; 10-2150]
- Stipulates the 120 day reservation for an LLC name in nonrenewable. [29-603]
- Clarifies an LLC can only conduct business as a statutorily defined *insurer* if the LLC is a title insurance agent or pure captive insurer. [29-609]
- Specifies and clarifies when the LLC's articles of amendment or restated articles of organization do not need to be published. If there is only a change in the name/address of members; the business address, or name/address of the statutory agent, the articles do not need to be published. [29-633]
- Clarifies the ACC's filing duties. This provision makes the nonprofit and LLC statutes consistent with the filing requirements for corporations. [10-3125; 29-634]
- A fiscal note has been prepared for this bill, and there is no fiscal impact.



HOUSE OF REPRESENTATIVES

HB 2058

commissioners; qualifications

Sponsor: Representative Konopnicki

DP Committee on Judiciary

X Caucus and COW

House Engrossed

HB 2058 changes the requirements for court commissioners.

History

Each superior court judge in a county that has three or more superior court judges may appoint a court commissioner. In order to be eligible, a candidate must be a United States citizen and a resident of the county in which they desire to be appointed. Appointed commissioners must be licensed members of the Arizona Bar and must have engaged in active general practice for not less than three years preceding their appointment.

Court commissioners are paid up to 90% of a superior court judge's salary, and are paid by the counties in which they serve. As of January 1, 2009, court commissioners may earn a maximum of \$130,500. According to the Administrative Office of the Courts, there are currently 89 court commissioners statewide.

Provisions

- Removes the requirement that court commissioners be engaged in active general practice for three years prior to their appointment and instead requires that they be a licensed member of the bar for at least five years prior to appointment.
- Makes technical and conforming changes.
- Contains an emergency clause.



HOUSE OF REPRESENTATIVES

HB 2088

minerals; land inventory; technical correction

Sponsor: Representative Nichols

DPA

S/E Committee on Government

X Caucus and COW

House Engrossed

HB 2088 makes technical corrections to statute regarding state trust lands containing common mineral products, materials, and property.

Proposed Strike-Everything Amendment

The proposed strike-everything amendment to HB 2088 transfers \$20 million from fiscal year (FY) 2008-2009 appropriation for the Public Conservation Account of the Land Conservation Fund (Fund) to compensate for FY 2008-2009 budget reductions, reversions, and agency expenditure suspensions.

History

Laws 1998, Chapter 204 established the Growing Smarter Act consisting of comprehensive municipal, county, and State Land Department planning and zoning reform. The legislation required voter approval through ballot Proposition 303, asking the voters to fund grants of money from existing state revenues to conserve open spaces in or near urban areas and other areas experiencing high growth demands. Proposition 303 created the Land Conservation Fund (Fund) comprised of the Public Conservation Account and the Conservation Donation Account.

Arizona Revised Statutes § 41-511.23 requires the state to annually appropriate \$20 million from the state General Fund to the Fund's Public Conservation Account from FY 2001 through FY 2011. According to the Joint Legislative Budget Committee, there is approximately \$66 million currently in the Fund.

The recently passed FY 2008-2009 budget reduced various land agencies' budgets including: the State Land Department, State Parks Board, the Department of Water Resources, and the Arizona Department of Game and Fish.

Provisions

- Transfers \$20 million from FY 2008-2009 appropriation for the Public Conservation Account of the Land Conservation Fund and restores FY 2008-2009 budget reductions and reversions as follows:

FY 2008-09 Transfer of Fund Monies	
Arizona Geological Survey	\$110,300
State Land Department	
Trust land management	\$625,000
Natural resource conservation districts	\$283,800
Arizona State Parks Board Heritage Fund	\$3,000,000
Arizona State Parks Board	
Lump sum reduction	\$846,300
Land conservation fund interest	\$1,568,800
State park fees	\$2,241,100
Department of Water Resources	
Lump sum suspension/reduction	\$1,785,800
Water banking fund	\$1,561,900
Department of Commerce	
Commerce workshops fund (growing smarter) (FRAT)	\$23,000
State Land Department	
Community protection fund	\$940,200
Fire suppression	\$1,000,000
Arizona State Parks Board	
State parks heritage fund	\$1,900,300
State parks enhancement fund (FRAT)	\$413,000
Department of Water Resources	
Augmentation and conservation assistance fund (FRAT)	\$99,800

- Appropriates from the FY 2008-2009 appropriation for the Fund to compensate for FY 2008-2009 agency expenditure suspensions as follows:

Department of Commerce	
Commerce workshops fund (growing smarter) (EBT)	\$24,000
Arizona Game and Fish Department	
Wildlife restoration and enhancement (EBT)	\$145,000
Arizona State Parks Board	
State parks enhancement fund (EBT)	\$3,077,000
Department of Water Resources	
Augmentation and conservation assistance fund (EBT)	\$354,700

- Extends the Public Conservation Account in the Land Conservation Fund through 2012.
- Contains a Proposition 105 clause, which requires any amending legislation to further the purposes of the original measure and the affirmative vote of at least three-fourths of the members of each house of the Legislature.
- Contains an emergency clause.

Amendments

Committee on Government

- The proposed strike-everything amendment was adopted.



HOUSE OF REPRESENTATIVES

HB 2091

charitable organizations; solicitations; disclosures

Sponsor: Representative Reagan

DP Committee on Commerce

X Caucus and COW

House Engrossed

Effective January 1, 2010, HB 2091 requires charitable organizations to disclose the percentage of money derived from the sale of donated items as well as the percentage of the items that remain in Arizona to benefit the charity.

History

For many charities, donated items assist with raising money that allows them to carry out their public service missions. Charities generate revenue in two ways: 1) operating their own thrift store locations; or 2) contracting with private companies who collect donations on their behalf. These donations are obtained at unattended collection bins, a residential pick up or a thrift store with an attendant present. HB 2091 informs donors of the manner in which their donations will be used and the amount being used to support the charity.

Provisions

- Makes it unlawful for an item donation location at a charity or business entity to not disclose:
 - the *charitable percentage* of revenue received by the charity from the sale of donations.
 - the percentage of the donations that will remain in Arizona for the purpose of being resold to benefit the charity.
- Defines *charitable percentage* as:
 - for the initial disclosure, the percentage of monies a charity received from selling the donated items the previous three years divided by the amount of revenue derived from selling the items at retail for that three year period.
 - the percentage of monies a charity received from selling the donations divided by the amount of revenue derived from selling the donations.
- Requires the charity or business entity to update the percentage posted at the donation location if either the charitable percentage or the percentage of items to remain in Arizona for the purpose of being resold changes more than five percent compared to the posted percentage.
- Becomes effective January 1, 2010.



HOUSE OF REPRESENTATIVES

HB 2258

consumer fireworks; novelties; sales

Sponsor: Representative Biggs

DPA

S/E Committee on Commerce

W/D Committee on Appropriations

X Caucus and COW

House Engrossed

HB 2258 regulates the sale of fireworks and sets licensing fees. Establishes the Consumer Fireworks and Novelties Fund that is to be administered by the State Fire Marshal.

Proposed Strike-Everything Amendment

The proposed strike-everything amendment to HB 2258 mandates that the State Fire Marshal adopt certain rules in order to allow for the sale of permissible consumer fireworks by a retail establishment. Allows the general public to use permissible consumer fireworks.

History

Laws 1941 made it “unlawful for any person to sell, offer or expose for sale, use, explode or have in his possession any fireworks”. Statute has since been updated to clarify that the following are permitted:

- The sale of fireworks at wholesale by a resident wholesaler, dealer or jobber.
- The sale of fireworks which are to be and are shipped directly out of the state.
- The use of fireworks by railroads or other transportation agencies for signal purposes or illumination.
- The sale or use of explosives for blasting or other legitimate industrial purposes.
- The use of fireworks or explosives by farmers, ranchers and their employees and by state and federal employees who manage wildlife resources to rally, drive or otherwise disperse concentrations of wildlife for the purpose of protecting property or wildlife.
- The manufacture or possession of fireworks by a qualified pyrotechnic expert.

According to the National Council on Fireworks Safety, four other states have similar consumer firework laws as those in Arizona, nineteen states allow essentially all consumer fireworks and five states prohibit all consumer fireworks. A person violating Arizona firework laws is guilty of a class 3 misdemeanor and subject to thirty days imprisonment and a fine of up to five hundred dollars.

Provisions

- Excludes “items that contain less than twenty five hundredths grains of explosive compound” from the definition of “*fireworks*”.

- Allows a retail establishment to sell permissible consumer fireworks in compliance with the State Fire Marshal's adopted rules.
- Permits the general public to use permissible consumer fireworks.
- States that the sale and use of permissible consumer fireworks are of statewide concern and the regulation of permissible consumer fireworks and their use is not subject to further regulation by a governing body.
- Excludes permissible consumer fireworks from the imposition by ordinance of further regulations and prohibitions on the sale, use and possession of fireworks by a governing body.
- Requires the State Fire Marshal to adopt a rule relating to the storage and retail sale of consumer fireworks prior to selling them to the public.
- Removes certain items from the definition of "*fireworks*" and includes them in the new definition of "*permissible consumer fireworks*", therefore now permitting them to be used.
- Defines the terms "*consumer firework*", "*display firework*" and "*permissible consumer firework*".



HOUSE OF REPRESENTATIVES

HB 2390

escort vehicles; training

Sponsor: Representative Biggs

DPA Committee on Transportation and Infrastructure

X Caucus and COW

House Engrossed

HB 2390 requires that escort vehicle operators have at least four hours of certified traffic control techniques training.

History

Arizona requires one or more escort vehicles for the transportation of vehicles which exceed size, weight or load as stipulated in statute (A.R.S. § 28-1091). Escort vehicles are required based on the proposed route, vehicle and load dimension, need for frequent stops, concern for public safety and the time involved (A.A.R. R17-6-305). Escort vehicle operators are required to be trained and certified in Arizona every four years. The requirements for training and certification include that the driver be at least eighteen years of age, have a valid driver license, and possess a legible and valid escort vehicle operator certificate issued in this state or another state (A.R.S. § 28-1110).

Entities that offer the training curriculum for Pilot Escort Vehicle Certification must base their training on the Pilot Car Escort Best Practices Guidelines developed by the Federal Motor Carrier Safety Administration (FMCSA), the Commercial Vehicle Safety Alliance (DVSA) and the Specialized Carriers & Rigging Association (SC&RA).

Provisions

- Mandates escort vehicle operators to have a minimum of four hours of training in certified traffic control techniques.

Amendments

Committee on Transportation and Infrastructure

- Requires escort vehicle operators to receive training and certification before being employed into service.
- States that certification from another state is permitted, if that other state recognizes Arizona's training and certification.



HOUSE OF REPRESENTATIVES

HB 2401

administrative rules oversight committee

Sponsor: Representative Williams

DP Committee on Government

X Caucus and COW

House Engrossed

HB 2401 establishes the Administrative Rules Oversight Committee.

History

Current statute requires each agency to make rules of practice, setting forth the nature and requirements of formal procedures. These rules must be made available to the public. Statute also provides for public involvement in the rule making process, including an appeals process. Agency rules are heard by the Governor's Regulatory Review Council (GRRC), although the Attorney General's Office will also review certain exempt rules.

The Administrative Rules Oversight Committee (AROC) was originally established in 1995. AROC was an 11-member committee that received complaints concerning rules and substantive policy statements that were alleged to be duplicative or onerous. AROC could conduct hearings and make comments to an agency, Attorney General or GRRC on any proposed rule or substantive policy statement, but they were not authorized to take formal action. AROC was repealed on December 31, 1998. In 1999, SB 1378 would have retroactively extended AROC until 2003, but was vetoed by Governor Hull.

The statutes that outline AROC's review of rules and substantive policy statements still exist under the Arizona Administrative Procedures Act. HB 2235 describes membership appointments, and meeting and staffing guidelines, effectively re-establishing AROC.

Provisions

- Establishes the Administrative Rules Oversight Committee which has oversight over any rules except for those exempted by A.R.S. § 41-1005.
- Sets forth Committee membership as follows (members serve at the pleasure of their appointing officer):
 - Five members appointed by the Speaker of the House of Representatives, one designated as cochairperson.
 - Five members appointed by the President of the Senate, one designated as cochairperson.
 - The Governor or the Governor's designee who is not an appointed agency director.
- Stipulates that Committee appointments must be made on or before October 1, 2008.
- Requires Legislative Council to staff the Committee and further states that the Committee shall meet upon the call of either cochairperson.

- Clarifies that a party contesting the legality of a rule, agency practice or substantive policy statement is not required to file a complaint with the Committee in order to exhaust its administrative remedies.



HOUSE OF REPRESENTATIVES

HCR 2024

sovereignty; tenth amendment.

Sponsor: Representative Burges

DP Committee on Government

X Caucus and COW

House Engrossed

HCR 2024 stipulates that the state of Arizona is hereby claiming sovereignty under the 10th Amendment to the United States Constitution.

History

The 10th Amendment to the Constitution states that “the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”.

Black’s Law Dictionary defines *sovereignty* as the supreme, absolute, and uncontrollable power by which any independent state is governed; supreme political authority; paramount control of the constitution and frame of government and its administration; the self-sufficient source of political power, from which all specific political powers are derived; the international independence of a state, combined with the right and power of regulating its internal affairs without foreign dictation. In other words, sovereignty is the power to do everything in a state without accountability – the power to make laws, to execute and apply them, to impose and collect taxes and levy contributions, to make war or peace, and to form treaties of alliance or of commerce with foreign nations.

Provisions

- Stipulates that the state of Arizona claims sovereignty under the 10th Amendment to the Constitution over all powers not otherwise enumerated and granted to the federal government by the Constitution.
- States that this resolution serves as both a notice and a demand to the federal government to immediately cease and desist mandates that are beyond the scope of these constitutionally delegated powers.
- Demands that all compulsory federal legislation that directs states to comply – under threat of civil or criminal penalties – or sanctions or requires states to pass legislation or otherwise lose federal funding be prohibited or repealed.
- Requires the Arizona Secretary of State to transmit copies of this resolution to the following parties:
 - The President of the United States.
 - The President of the United States Senate.

- The Speaker of the United States House of Representatives.
- The Speaker of the House and the President of the Senate of each state's legislature.
- Each member of the Arizona Congressional Delegation.